



**COURT OF APPEALS FOR THE  
FIRST DISTRICT OF TEXAS AT HOUSTON**

**ORDER**

Appellate case name: Michael W. Gioffredi v. The Retreat at Riverstone

Appellate case number: 01-21-00627-CV

Trial court case number: 21-CCV-068826

Trial court: County Court at Law No. 1 of Fort Bend County

On February 9, 2021, Appellant Michael W. Gioffredi filed a “Request for Supplemental Reporter’s Record or New Trial.” Appellant complains that the court reporter failed to file “the video Plaintiff Exhibit 116 played in court on October 6, 2021.” The court reporter, however, advised Appellant and this Court that Exhibit 116 was not offered or admitted into evidence. Accordingly, it is not part of the reporter’s record. Appellant’s motion is **denied**. *See Vanscot Concrete Co. v. Bailey*, 862 S.W.2d 781, 783 (Tex. App.—Fort Worth 1993) (“Documents not introduced into evidence at trial are not properly included in the record and cannot be considered on appeal.”), *aff’d*, 894 S.W.2d 757 (Tex. 1995); *In re E.W.*, No. 05-01-01463-CV, 2002 WL 1265541, at \*3 (Tex. App.—Dallas June 7, 2002, pet. denied) (mem. op.) (“[T]he rule does not allow a party to supplement the reporter’s record with documents that were not admitted in evidence.”).

On February 14, 2021, Appellant filed a “Request for Supplemental Clerk’s Record.” Then, on March 27, 2022, he filed a “Letter in Regar[d]s to 1st Supplemental Record.” We construe this letter as a second motion to supplement the clerk’s record. Given that a supplemental clerk’s record was filed on March 25, 2022, we **deny** Appellant’s the motions to supplement the clerk’s record **as moot**.

Last, on April 25, 2022, Appellant filed a “Letter in Regar[d]s to Clerk and Reporter Records II” complaining that because the clerk had refused “to prepare transcripts containing all exhibits of evidence [] designated to be included,” he had been unable to write his appellate brief. He requested an extension of time to file his brief “until a reasonable amount of time after the transcripts . . . are prepared and submitted.” To the extent Appellant re-urges his February 9, 2021 request for a “Supplemental Reporter’s Record or New Trial” or his March 27 and April 25, 2022 request for a supplemental clerk’s record, the motion is denied. And given that Appellant has filed his brief, his request for an extension of time to file his brief is denied as moot.

It is so ORDERED.

Judge's signature: /s/ Veronica Rivas-Molloy  
Acting individually

Date: April 21, 2022